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10/727,069	12/02/2003	Stuart Antony Green	21709-ZOO-017	4890

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Law Office of Daniel W. Roberts
904 Topaz Street
Superior, CO 80027

EXAMINER

DANG, HUNG Q

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2621

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/727,069	Applicant(s) GREEN ET AL.	
	Examiner Hung Q. Dang	Art Unit 2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 47-85 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 47-85 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 04/29/2009 has been entered.

Response to Arguments

Applicant's arguments filed 04/29/2009 have been fully considered but they are not persuasive.

On page 11, Applicant argues that Collar does not disclose:

1 - Collar does not teach a program a plurality of GOP structures collectively providing a first video sequence, each GOP having a predetermined seed component and a navigation component.

2 - The program chains 40 of Collar are not equivalent to the group-of-picture structures set forth in the present application.

3 - Collar teaches only how to adjust for non compliant range selection of a random value.

In response, Examiner respectfully disagrees.

At least described in Figs. 1-6, paragraphs [0048], [0057], and Fig. 9a, Collar clearly discloses the feature of "a program a plurality of GOP structures collectively

providing a first video sequence, each GOP having a predetermined seed component and a navigation component.” First, at least the plurality of cells in Fig. 2, Fig. 5, or Fig. 8 clearly corresponds to the recited a plurality of GOP structures collectively providing a first video sequence as illustrated in the initial step 32 of Fig. 1, Fig. 4, or Fig. 7, which is the video sequence that is viewed by users prior a selection. Further, the seed component corresponds to a predetermined value that sets an upper bound for a random number, which is either the numerical value of 7 as shown in line CMND.1 of Fig. 6 or the numerical value 49 as shown in line Cmd.4 of Fig. 9a, for example. Collar also teaches that the navigation component corresponds to any set of commands comprising one ore more of the link commands shown in Fig. 6.

As such, the discussion above proves that Applicant's arguments regarding points 1 and 2 are not persuasive.

Applicant's argument regarding point 3 is irrelevant with respect to claimed invention.

On pages 14-15, Applicant argues that Collar fails to teach or suggest the elements of:

4) the video sequence provided by a plurality of a group-of-picture (GOP) structures;

5) each GOP structure providing a predetermined seed component and a navigation component;

6) using the seed component from the interrupting the presentation of a group-of-picture structure at least in part to provide a random number.

In response, Examiner respectfully disagrees.

Applicant's argument regarding point 4 above is not persuasive for the same reason as set forth above.

With respect to point 5, Examiner respectfully disagrees since at least Fig. 6 of Collar describes each cell structure, which corresponds to the recited a plurality of GOPs, is associated with a pre-command and a post-command. At least the pre-command structure as shown in Fig. 6 does have a predetermined seed component and a navigation component as discussed above.

With respect to point 6, Examiner respectfully submits that at least in paragraphs [0008]-[0011], Figs. 5-6, and Figs. 9, Collar discloses that the interruption is initiated by user selection to interrupt the playback of current audio/video presentation to the target audio/video presentation using the pre-command structure which has a seed component and a navigation component as described in the underlined text above.

Claim Objections

Claims 55, 66, and 83 are objected to because of the following informalities:

Claim 55 is recited to depend on a cancelled claim. To expedite prosecution, it is considered to be dependent on claim 47.

Claim 66 recites, "a data structure recorded on the recording medium comprising data defining; ". The semicolon should be replaced with a colon (":").

Claim 83 recites an incomplete limitation of "and in a second instance the " and without being ended with a period. To expedite prosecution, the incomplete limitation is not considered.

Appropriate correction is required.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

The USPTO “Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility” (Official Gazette notice of 22 November 2005), Annex IV, reads as follows:

Claims that recite nothing but the physical characteristics of a form of energy, such as a frequency, voltage, or the strength of a magnetic field, define energy or magnetism, per se, and as such are nonstatutory natural phenomena. O'Reilly, 56 U.S. (15 How.) at 112-14. Moreover, it does not appear that a claim reciting a signal encoded with functional descriptive material falls within any of the categories of patentable subject matter set forth in Sec. 101.

... a signal does not fall within one of the four statutory classes of Sec. 101.

.... signal claims are ineligible for patent protection because they do not fall within any of the four statutory classes of Sec. 101.

Claims 56-65 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter as follows.

Claims 55-65 recite “a computer-readable medium”. However, the recited “computer-readable medium” could be reasonably interpreted as encompassing statutory media such as a “ROM”, “RAM”, “EPROM”, “CD-ROM”, etc, as well as non-statutory subject matter such as a magnetic, optical, electromagnetic, infrared, ... or propagation medium.

A “magnetic, optical, electromagnetic, infrared, ... or propagation medium” is neither a process nor a product, (i.e., a tangible “thing”) and therefore does not fall within one of the four statutory classes of § 101. Rather, a “magnetic, optical,

electromagnetic, infrared, ... or propagation medium" is a form of energy, in the absence of any physical structure or tangible material.

The Examiner suggests amending the claim to recite the "computer-readable medium" as "computer-readable non-transitory medium" to include tangible computer readable media, while at the same time excluding the intangible media such as signals, carrier waves, etc. Any amendment to the claim should be commensurate with its corresponding disclosure.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 47-85 are rejected under 35 U.S.C. 102(e) as being anticipated by Collar et al. (US 2005/0008348 – hereinafter Collar).

Regarding claim 47, Collar discloses a method of generating a random number associated with a user initiated interruption of a video sequence ([0008]-[0011]), comprising: sequentially presenting to a user a plurality of group-of-picture ("GOP") structures collectively providing a first video sequence (*Fig. 2; Fig. 5; [0011]; [0052]*) – *wherein at least the plurality of playback cells corresponds to a plurality of group-of-picture and wherein the first video sequence corresponds to the video sequence that is*

viewed by users prior a selection), each group-of-picture structure having a predetermined seed component and a navigation component (Fig. 2; Fig. 3; Fig. 5; Fig. 6; [0048]; [0057]; Fig. 9a – wherein the seed component corresponds to a predetermined value that sets an upper bound for a random number, which is either the numerical value of 7 as shown in line CMND.1 of Fig. 6 or the numerical value 49 as shown in line Cmd.4 of Fig. 9a and wherein the navigation component corresponds to any set of commands comprising one ore more of the link commands shown in Fig. 6); in response to a user initiated interruption during the presentation of a GOP structure, receiving the seed component and the navigation component from the interrupted GOP structure ([0008]-[0011]; Figs. 5-6; Figs. 9 – wherein the interruption is initiated by user selection to interrupt the playback of current audio/video presentation to the target audio/video presentation); providing a random number based at least in part on the seed component ([0008]-[0011]; [0058]; Fig. 6; Figs. 9; Fig. 13); and linking or jumping to a second video sequence identified by the navigational component ([0008]; Figs. 1-4).

Regarding claim 48, Collar also discloses the seed component is combined with a system generated number to provide the random number (Fig. 6; Figs. 9; [0048]; [0058]).

Regarding claim 49, Collar also discloses each GOP structure has as associated active button, each active button having an associated button command that is performed in response to a navigation engine detecting invocation of a respective active button of a currently active GOP structure, invocation of the active button directing a

corresponding button command to provide the seed component and the navigation component (*Fig. 6; Fig. 10; [0008]-[0011]*).

Regarding claim 50, Collar also discloses a time varying nature of the user initiated responses provides a human based random element to overcome defective implementations of a RND function and/or defective register counting (*[0012]*).

Regarding claim 51, Collar also discloses the random number seeds a random number generator (*[0009]*).

Regarding claim 52, Collar also discloses the presentation of the plurality of GOP structures is transparent, the user perceiving the first video sequence unaware of the transition from GOP structure to GOP structure and each structures associated seed component (*Figs. 1-6; [0008]-[0011] – wherein user can only see the presentation of the video sequence without being aware of how individual GOPs are internally structured therefore unaware of any transition of GOP structure*).

Regarding claim 53, Collar also discloses the first video sequence is repeated until the user interruption is initiated (*Fig. 1; [0011]*).

Regarding claim 54, Collar also discloses the method is stored on a computer-readable medium as a computer program, which when executed by a computer will perform the stems of generating a random number associated with a user initiated interruption of a video sequence (*[0008]-[0011]*).

Regarding 55, Collar also discloses a computing device configured to perform the method of generating a random number associated with a user initiated interruption of a video sequence as presented in claim 1 (*[0008]-[0011]*).

Claim 56 is rejected for the same reason as discussed in claim 47 above.

Claim 57 is rejected for the same reason as discussed in claim 48 above.

Claim 58 is rejected for the same reason as discussed in claim 49 above.

Claim 59 is rejected for the same reason as discussed in claim 50 above.

Claim 60 is rejected for the same reason as discussed in claim 51 above.

Claim 61 is rejected for the same reason as discussed in claim 52 above.

Claim 62 is rejected for the same reason as discussed in claim 53 above.

Regarding claim 63, Collar also disclose in a first instance the seed component of each GOP structure is a unique value (*Fig. 6; the first instance being the instance when the CMND.1 is executed with the unique value of 7*), and in a second instance the seed component of each GOP structure is a navigation command to a location providing a unique value (*Fig. 6; the second instance being the instance when the CMND.2 is executed with the location providing a unique value being the register GPRM12*).

Regarding claim 64, Collar also discloses the navigation component is the same for all GOP structures (*Figs. 9 - wherein the navigation component is a LinkPGCN command, which is used for all GOP structures*).

Regarding claim 65, Collar also discloses the computer readable medium is a DVD ([0007]; [0038]).

Regarding claim 66, Collar discloses an audiovisual product recorded on a recording medium ([0007]-[0011]; [0038]), the audiovisual product structured and arranged to provide a random number associated with a user initiated interruption of a video sequence when read by a DVD reading system ([0007]-[0011]; [0038]-[0039]), the

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product comprising: a data structure recorded on the recording medium comprising data defining: at least a first video sequence provided by a sequential plurality of group-of-picture ("GOP") structures, each GOP structure having a predetermined seed component and a navigation component (*Figs. 1-6; [0011]; [0052]; [0058] – wherein at least the plurality of playback cells corresponds to a plurality of group-of-picture and wherein the first video sequence corresponds to the video sequence that is viewed by users prior a selection - [0048]; [0057]; Fig. 9a – wherein the seed component corresponds to a predetermined value that sets an upper bound for a random number, which is either the numerical value of 7 as shown in line CMND.1 of Fig. 6 or the numerical value 49 as shown in line Cmd.4 of Fig. 9a and wherein the navigation component corresponds to any set of commands comprising one or more of the link commands shown in Fig. 6*); at least one second video sequence (*Fig. 1; Fig. 4; Fig. 7; [0008] - wherein the second video sequence is the video sequence presented after step 30 of Fig.1, Fig. 4, or Fig. 7*); and executable code which when executed by a playback device will present the first video sequence (*Fig. 1; Fig. 4; Fig. 7; [0008] - wherein the first video sequence is presented in initial step 32 of Fig.1, Fig. 4, or Fig. 7*), and in response to a user initiated interruption during the presentation of a GOP structure (*[0008]-[0011]; Figs. 5-6; Figs. 9 – wherein the interruption is initiated by user selection to interrupt the playback of current audio/video presentation to the target audio/video presentation*) receiving the seed component and navigation component, the seed component used at least in part to provide a random number (*[0008]-[0011]; [0058]; Fig.*

6; *Figs. 9; Fig. 13*), the navigation component used by a navigation engine to link or jump to a determined second video sequence ([0008]; *Figs. 1-4*).

Regarding claim 67, Collar also discloses the product is a DVD and the playback device is a DVD player ([0038]-[0039]).

Claim 68 is rejected for the same reason as discussed in claim 48 above.

Claim 69 is rejected for the same reason as discussed in claim 49 above.

Claim 70 is rejected for the same reason as discussed in claim 50 above.

Claim 71 is rejected for the same reason as discussed in claim 51 above.

Claim 72 is rejected for the same reason as discussed in claim 52 above.

Claim 73 is rejected for the same reason as discussed in claim 53 above.

Claim 74 is rejected for the same reason as discussed in claim 63 above.

Claim 75 is rejected for the same reason as discussed in claim 64 above.

Claim 76 is rejected for the same reason as discussed in claims 66 and 67 above.

Claim 77 is rejected for the same reason as discussed in claim 48 above.

Claim 78 is rejected for the same reason as discussed in claim 49 above.

Claim 79 is rejected for the same reason as discussed in claim 50 above.

Claim 80 is rejected for the same reason as discussed in claim 51 above.

Claim 81 is rejected for the same reason as discussed in claim 52 above.

Claim 82 is rejected for the same reason as discussed in claim 53 above.

Claim 83 is rejected for the same reason as discussed in claim 63 above.

Claim 84 is rejected for the same reason as discussed in claim 63 above.

Claim 85 is rejected for the same reason as discussed in claim 64 above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hung Q. Dang whose telephone number is (571)270-1116. The examiner can normally be reached on IFT.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, THAI Q. TRAN can be reached on 571-272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Hung Q Dang/
Examiner, Art Unit 2621

/Thai Tran/
Supervisory Patent Examiner, Art Unit 2621